

RULEMAKING NOTICE FORM

Notice Number 2009-54

Rule Number He-M 701

<p>1. Agency Name & Address:</p> <p>Department of Health and Human Services Bureau of Behavioral Health 109 Pleasant St, Main Building Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 135-C:4, III</u></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p style="padding-left: 20px;">Adoption <u> X </u></p> <p style="padding-left: 20px;">Amendment _____</p> <p style="padding-left: 20px;">Repeal _____</p> <p style="padding-left: 20px;">Readoption _____</p> <p style="padding-left: 20px;">Readoption w/amendment _____</p>
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5. Short Title: ADMISSIONS TO GLENCLIFF HOME

6. (a) Summary of what the rule says and the effect of the rule on those regulated:
- **These rules establish eligibility criteria and procedures for admission of persons to the Glenclyff home. Compared with rules that expired in December 2007, referrals can now be made by a licensed practitioner or N.H. Hospital as well as area agencies and Community Mental Health Programs, and applicants must have undergone Preadmission Screening and Annual Resident Review screening (PASARR). Although this has been the case in practice, the rules have not stated it. Additional changes include references and terminology are updated to conform with recently amended statutes and rules; and a newly stated category of priority for admission is now a person who is a patient at N.H. Hospital. Further, some text has been reworded for clarity.**
6. (b) Brief description of the groups affected:
- **These rules impact persons who have a mental illness or developmental disability and require nursing facility level of care. Area agency, community mental health program (CMHP), Glenclyff home, and N.H. Hospital employees are also impacted.**
6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule Number	RSA/Federal Citation
He-M 701.01- 701.05	RSA 135-C:4, III, 135-C:12
He-M 701.06	RSA 135-C:5, I (b)

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Maya Blanchette**

Title: **Rules Coordinator**

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129 Pleasant Street
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TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

The proposed rules may be viewed and downloaded at:
<http://www.dhhs.state.nh.us/DHHS/ADMINRULEMAKING/default.htm>

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Monday, May 11, 2009**

☒ Fax

☒ E-mail

☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Friday, May 1, 2009, at 1:00 PM**

Place: **129 Pleasant St., Brown Building, Auditorium, Concord, NH 03301**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # **09:045** , dated **3/27/09**

Fiscal Impact Statement for Department of Health and Human Services rules governing Admissions to Glencliff Home. [He-M 701]

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

The previous rules expired in December 2007. The Department has continued to operate under the provisions of the expired rules. There is no difference in cost when comparing the proposed rules to the expired rules.

2. Cite the Federal mandate. Identify the impact of state funds:

No Federal mandate; no impact on state funds.

3. Cost and benefits of the proposed rule(s):

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To Independently owned businesses:

None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution: **The proposed rule does not mandate any fees, duties or expenditures on the political subdivisions of the state, and therefore does not violate Part I, Article 28-a of the N.H. Constitution.**

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Adopt He-M 701, previously effective 12/18/99 (Document #7165), and expired 12/18/07, cited and to read as follows:

CHAPTER He-M 700 GLENCLIFF HOME

PART He-M 701 ADMISSIONS TO GLENCLIFF HOME

Statutory Authority: RSA 135-C:4, III

He-M 701.01 Purpose. The purpose of these rules is to establish eligibility criteria and procedures for admission of persons to the Glencliff home.

He-M 701.02 Definitions. The words and phrases used in these rules shall mean the following:

(a) "Administrator" means the chief administrator of Glencliff home.

(b) "Area agency" means "area agency" as defined under RSA 171-A:2, I-b, namely, "an entity established as a nonprofit corporation in the state of New Hampshire which is established by rules adopted by the commissioner to provide services to developmentally disabled persons in the area."

(c) "Community mental health program (CMHP)" means a program operated by the state, city, town, or county, or a community based New Hampshire nonprofit corporation for the purposes of planning, establishing, and administering an array of community-based, mental health services pursuant to He-M 403 and as defined in RSA 135-C:2, IV.

(d) "Developmental disability" means "developmental disability" as defined under RSA 171-A:2, V, namely, "a disability:

(1) Which is attributable to intellectual disability, cerebral palsy, epilepsy, autism or a specific learning disability, or any other condition of an individual found to be closely related to mental retardation as it refers to general intellectual functioning or impairment in adaptive behavior or requires treatment similar to that required for mentally retarded individuals; and

(2) Which originates before such individual attains age 22, has continued or can be expected to continue indefinitely, and constitutes a severe disability to such individual's ability to function normally in society."

(e) "Department" means the department of health and human services.

(f) "Informed decision" means a choice made voluntarily by a patient or applicant for services or, where appropriate, such person's legal guardian, after all relevant information necessary to making the choice has been provided, when:

(1) The person understands that he or she is free to choose or refuse any available alternative;

(2) The person clearly indicates or expresses his or her choice; and

(3) The choice is free from all coercion.

(g) "Licensed practitioner" means a medical doctor, physician's assistant, advanced registered nurse practitioner, doctor of osteopathy or doctor of naturopathic medicine licensed to practice in New Hampshire.

(h) "Least restrictive alternative" means the program or service which least inhibits a person's freedom of movement and participation in the community and accommodates the person's informed decision-making while achieving the purposes of treatment.

(i) "Medical assistance" means the federally financed medical assistance program established pursuant to title XIX of the Social Security Act.

(j) "Mental illness" means a condition of a person who is determined severely mentally disabled in accordance with He-M 401.05 through He-M 401.07 and who has at least one of the following psychiatric disorders classified in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (DSM-IV-TR):

- (1) Schizophrenia and other psychotic disorders;
- (2) Mood disorders;
- (3) Borderline personality disorder;
- (4) Post traumatic stress disorder;
- (5) Obsessive compulsive disorder;
- (6) Eating disorder;
- (7) Dementia, where the psychiatric symptoms cause the functional impairments and one or more of the following co-morbid symptoms exist:
 - a. Anxiety;
 - b. Depression;
 - c. Delusions;
 - d. Hallucinations; or
 - e. Paranoia; or
- (8) Panic disorder.

(k) "Nursing facility" means an institution, or a distinct part of an institution, which provides one or more of the following as defined in Section 1919(a) of the Social Security Act and is not primarily for the care and treatment of mental diseases:

- (1) Skilled nursing care and related services for residents who require medical or nursing care;
- (2) Rehabilitation services for the rehabilitation of injured, disabled or sick individuals; or
- (3) On a regular basis, health-related care and services to individuals who because of their mental or physical condition require care and services, above the level of room and board, which can be made available to them only through an institution.

He-M 701.03 Eligibility Criteria. An applicant shall be eligible for admission to Glencliff home if that applicant:

(a) Is 60 years of age or older, or younger if the administrator determines that the applicant:

(1) Has been referred to Glencliff home by an area agency, a community mental health program, a licensed practitioner, or New Hampshire hospital;

(2) Meets all of the other criteria in (b)-(f) below; and

(3) Has an ISP pursuant to He-M 401, a service agreement pursuant to He-M 503, or a treatment plan prepared by New Hampshire hospital which identifies Glencliff home as the least restrictive alternative capable of providing the level of care that the person requires;

(b) Has a mental illness or developmental disability;

(c) Does not require physician services or psychiatric care on a daily basis;

(d) Has qualified for nursing facility level of care in accordance with criteria and procedures set forth in He-E 802.05, if the applicant is a medical assistance recipient;

(e) Voluntarily requests admission or has a guardian of the person appointed pursuant to RSA 464-A who requests admission and has obtained the approval of a probate court for such admission in accordance with RSA 464-A:25; and

(f) Has been reviewed and approved for nursing facility placement pursuant to He-M 1302.

He-M 701.04 Application Procedures.

(a) Initial inquiries or referrals for admission to Glencliff home shall be directed to the admissions coordinator at Glencliff home.

(b) An application for admission to Glencliff home shall:

(1) Be made in writing;

(2) Be made by:

a. The applicant;

b. A person acting with the consent of the applicant; or

c. A person legally authorized to act on behalf of the applicant;

(3) Contain the following information regarding the applicant:

a. Name, address, sex, and birth date;

b. Birthplace and citizenship status;

c. Diagnosis;

d. Guardianship status;

e. Name, address, and telephone number of physician(s);

f. History of previous hospitalization(s) for psychiatric treatment;

- g. Description of self-care abilities and physical functioning;
- h. Adaptive equipment needed;
- i. Medical history, including history of TB testing;
- j. Medical status, including:
 - 1. Allergies;
 - 2. Medications currently prescribed; and
 - 3. Evaluation of current mental status;
- k. Therapeutic and rehabilitative services needed;
- l. Social history;
- m. Financial assets, including:
 - 1. Insurance benefits;
 - 2. Entitlements;
 - 3. Pension benefits; and
 - 4. Other benefits; and
- n. Source of payment for care at Glencliff home;

(4) Contain written authorization permitting medical and psychiatric facilities and personnel that are providing or have provided care and treatment to the applicant to release clinical and medical records concerning the applicant to Glencliff home; and

(5) Be made only after the applicant has obtained a determination of eligibility for nursing facility level of care from the bureau of elderly and adult services of the department in accordance with He-E 802.05, if the applicant is a medical assistance recipient.

(c) An applicant or applicant representative shall send an application and related material to the admissions coordinator at Glencliff home.

(d) Within 15 days of receipt of an application, excluding weekends and state legal holidays, the administrator or his or her designee shall review the application and related material and shall take action as required by He-M 701.05.

(e) If the administrator or his or her designee determines that application information is insufficient to establish eligibility for admission, the administrator or designee shall:

- (1) Notify the applicant of the name, address, official title, and telephone number of the Glencliff employee who may be contacted regarding the application;
- (2) Take steps necessary to obtain the needed information and make a determination of eligibility in accordance with He-M 701.03, if possible, including:
 - a. Notifying the applicant of any apparent errors or omissions; and

b. Requesting any additional information required by (b) above; and

(3) Deny the application if necessary information is not provided pursuant to (2) above and inform the applicant in writing of the following:

a. The fact that sufficient information to determine eligibility has not been provided or obtained;

b. The specific, additional information which is needed;
and

c. The right of the applicant to resubmit the application at any time.

(f) If the administrator or his or her designee finds that sufficient information is available to determine eligibility for admission, the administrator or designee shall either:

(1) Approve eligibility for admission and inform the applicant in writing of the approval if the applicant meets all of the criteria for admission; or

(2) Deny eligibility for admission if the applicant does not meet one or more of the eligibility criteria in He-M 701.03 and, within 10 days of the determination, issue written notification to the applicant and, if applicable, his or her guardian of the denial and the specific criteria not met.

He-M 701.05 Admission Procedures.

(a) An eligible applicant shall be admitted to Glencliff home if a vacancy exists which is suitable for the applicant pursuant to He-M 701.05 (c).

(b) An eligible applicant shall be suitable for a vacancy unless one or more of the following conditions apply:

(1) The applicant is assaultive and other residents would be at risk if the admission were made;
or

(2) The available services and physical accommodations do not satisfy the applicant's need for care and supervision.

(c) If there are more eligible applicants for admission to Glencliff home than there are current vacancies, the administrator shall establish a waiting list.

(d) The administrator shall admit eligible applicants as follows:

(1) Applicants who are suitable for admission and are determined to have priority pursuant to (e) below shall be placed before other applicants; and

(2) Except as provided in (e) below, applicants who are suitable for admission shall be placed in the order in which the applications were received.

(e) An eligible applicant shall be determined to have priority for admission, regardless of date of application, if one of the following criteria applies:

(1) The applicant is a patient at New Hampshire hospital;

(2) Within his or her current living environment, the applicant presents a serious risk of physical or psychological harm to self or others; or

(3) The applicant is homeless.

He-M 701.06 Appeals. An applicant or anyone authorized to act on behalf of an applicant may appeal any decision rendered under these rules in accordance with He-M 202, rights protection procedures, and He-C 200, rules of practice and procedure.

APPENDIX
IMPLEMENTED STATUTES

Rule Number	RSA/Federal Citation
He-M 701.01- 701.05	RSA 135-C:4, III, 135-C:12
He-M 701.06	RSA 135-C:5, I (b)